

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

UNITED STATES OF AMERICA,

FILED
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U.S. DISTRICT COURT E.D.N.Y.

ORDER

★ SEP 23 2011 ★

GLEESON, J.

-against-

BROOKLYN OFFICE

95-CR-506 (JG)

MARVA ISAACS,

Defendant.

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JOHN GLEESON, United States District Judge:

MISC 11 0678

On July 6, 1995, Marva Isaacs pleaded guilty to a single count of importation of a schedule II controlled substance in violation of 21 U.S.C. §§ 952(a), 960(a)(1) & 960(b)(2)(B)(ii) and was subsequently sentenced to three years of probation. By letter dated September 12, 2011, Isaacs asks the Court to expunge her conviction. She states in her letter that this was her only criminal conviction and that she has since been a law-abiding, gainfully employed citizen and that she is actively involved in her community and her church. She also states that she is unable to travel to Canada to visit her family due to her criminal record. The Court has also received a letter dated September 12, 2011, from Marion Porterfield, a friend of Isaacs, who attests to Isaacs's diligent community work and her good character.

The only statute authorizing a court to expunge a federal criminal conviction, 18 U.S.C. § 3607(c), applies in some circumstances to convictions for simple possession of a controlled substance in violation of 21 U.S.C. § 844. Isaacs was convicted of a different offense and therefore I cannot expunge her conviction pursuant to statute.

Courts may also expunge criminal records pursuant to their inherent equitable powers. *United States v. Schnitzer*, 567 F.2d 536, 539 (2d Cir. 1977); *Moss v. United States*, No. 09-MC-495 (JFB), 2011 WL 1706548, at *1 (E.D.N.Y. May 4, 2011); *Fernandez v. United*

States, No. 09-MC-326 (CPS), 2009 WL 2227140, at *1 (E.D.N.Y. July 24, 2009). The standard for doing so, however “is ‘extremely stringent,’” *Fernandez*, 2009 WL 2227140, at *1 (citation omitted), “and relief usually is granted only in ‘extreme circumstances,’” *Schnitzer*, 567 F.2d at 539 (citation omitted).

Although I commend Isaacs for her community work and other accomplishments over the past 16 years, and I have no reason to doubt that she has successfully rehabilitated herself, I find that she has not demonstrated the kind of extreme circumstances that would warrant expunging her conviction. Many people with a felony conviction have difficulty traveling internationally as a result. Isaacs’s situation is not unique or extraordinary in that regard. Accordingly, her request for expungement is denied.

Isaacs is not without recourse if she wishes to travel to Canada. Although Canadian law does prohibit persons with certain criminal convictions from entering Canada, it also provides for exceptions that may apply to Isaacs. In particular, Isaacs may apply for individual rehabilitation to enter Canada. Based on the facts described in the letters the Court has received, she would be a strong applicant. Isaacs should consult the following webpage maintained by the Canadian government for more information on the possible ways she may visit Canada despite her conviction: <http://www.cic.gc.ca/english/information/inadmissibility/conviction.asp>.

So Ordered.

s/John Gleeson
John Gleeson, U.S.D.J.

Dated: Brooklyn, New York
September 23, 2011